

**§ 1.182 Questions not specifically provided for.**

All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(f).

[69 FR 56544, Sept. 21, 2004]

**§ 1.183 Suspension of rules.**

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

[69 FR 56544, Sept. 21, 2004]

**§ 1.184 [Reserved]**

APPEAL TO THE PATENT TRIAL AND  
APPEAL BOARD

AUTHORITY: Secs. 1.191 to 1.198 also issued under 35 U.S.C. 134.

**§ 1.191 Appeal to Patent Trial and Appeal Board.**

Appeals to the Patent Trial and Appeal Board under 35 U.S.C. 134(a) and (b) are conducted according to part 41 of this title.

[77 FR 46625, Aug. 6, 2012]

**§§ 1.192–1.196 [Reserved]****§ 1.197 Termination of proceedings.**

(a) Proceedings on an application are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action except:

(1) Where claims stand allowed in an application; or

(2) Where the nature of the decision requires further action by the examiner.

(b) The date of termination of proceedings on an application is the date on which the appeal is dismissed or the date on which the time for appeal to the U.S. Court of Appeals for the Federal Circuit or review by civil action (§ 90.3 of this chapter) expires in the absence of further appeal or review. If an appeal to the U.S. Court of Appeals for the Federal Circuit or a civil action has been filed, proceedings on an application are considered terminated when the appeal or civil action is terminated. A civil action is terminated when the time to appeal the judgment expires. An appeal to the U.S. Court of Appeals for the Federal Circuit, whether from a decision of the Board or a judgment in a civil action, is terminated when the mandate is issued by the Court.

[78 FR 75252, Dec. 11, 2013]

**§ 1.198 Reopening after a final decision of the Patent Trial and Appeal Board.**

When a decision by the Patent Trial and Appeal Board on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

[77 FR 46625, Aug. 6, 2012]

PUBLICATION OF APPLICATIONS

SOURCE: 65 FR 57058, Sept. 20, 2000, unless otherwise noted.

**§ 1.211 Publication of applications.**

(a) Each U.S. national application for patent filed in the Office under 35 U.S.C. 111(a) and each international application in compliance with 35 U.S.C. 371 will be published promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under title 35, United States Code, unless:

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(1) The application is recognized by the Office as no longer pending;

(2) The application is national security classified (see § 5.2(c)), subject to a secrecy order under 35 U.S.C. 181, or under national security review;

(3) The application has issued as a patent in sufficient time to be removed from the publication process; or

(4) The application was filed with a nonpublication request in compliance with § 1.213(a).

(b) Provisional applications under 35 U.S.C. 111(b) shall not be published, and design applications under 35 U.S.C. chapter 16 and reissue applications under 35 U.S.C. chapter 25 shall not be published under this section.

(c) An application filed under 35 U.S.C. 111(a) will not be published until it includes the basic filing fee (§ 1.16(a) or § 1.16(c)) and any English translation required by § 1.52(d). The Office may delay publishing any application until it includes any application size fee required by the Office under § 1.16(s) or § 1.492(j), a specification having papers in compliance with § 1.52 and an abstract (§ 1.72(b)), drawings in compliance with § 1.84, a sequence listing in compliance with §§ 1.821 through 1.825 (if applicable), and the inventor's oath or declaration or application data sheet containing the information specified in § 1.63(b).

(d) The Office may refuse to publish an application, or to include a portion of an application in the patent application publication (§ 1.215), if publication of the application or portion thereof would violate Federal or state law, or if the application or portion thereof contains offensive or disparaging material.

(e) The publication fee set forth in § 1.18(d) must be paid in each application published under this section before the patent will be granted. If an application is subject to publication under this section, the sum specified in the notice of allowance under § 1.311 will also include the publication fee which must be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. This three-month period is not extendable. If the application is not published under this section, the

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publication fee (if paid) will be refunded.

[65 FR 57058, Sept. 20, 2000, as amended at 70 FR 3891, Jan. 27, 2005; 77 FR 48822, Aug. 14, 2012]

### § 1.213 Nonpublication request.

(a) If the invention disclosed in an application has not been and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the application will not be published under 35 U.S.C. 122(b) and § 1.211 provided:

(1) A request (nonpublication request) is submitted with the application upon filing;

(2) The request states in a conspicuous manner that the application is not to be published under 35 U.S.C. 122(b);

(3) The request contains a certification that the invention disclosed in the application has not been and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing; and

(4) The request is signed in compliance with § 1.33(b).

(b) The applicant may rescind a nonpublication request at any time. A request to rescind a nonpublication request under paragraph (a) of this section must:

(1) Identify the application to which it is directed;

(2) State in a conspicuous manner that the request that the application is not to be published under 35 U.S.C. 122(b) is rescinded; and

(3) Be signed in compliance with § 1.33(b).

(c) If an applicant who has submitted a nonpublication request under paragraph (a) of this section subsequently files an application directed to the invention disclosed in the application in which the nonpublication request was submitted in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant must notify the Office of such filing within forty-five days after the date of the filing of such foreign or